

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TEXAS GUN RIGHTS, INC., *et al.*,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES,

Defendant.

Civil Action No. 4:23-cv-578-O

JOINT STATUS REPORT

Last year, the Court stayed proceedings in this case pending final judgment in the related case of *Mock v. Garland*, No. 4:23-cv-95 (N.D. Tex.). *See* ECF No. 41. This Court entered final judgment in *Mock* in June of this year, vacating the same rule challenged in this case, *Factoring Criteria for Firearms With Attached “Stabilizing Braces,”* 88 Fed. Reg. 6478 (Jan. 31, 2023) (“Rule”), *see Mock v. Garland*, No. 4:23-cv-95 (N.D. Tex.), ECF Nos. 110, 111, and the government has appealed that decision to the Fifth Circuit, *see Mock v. Garland*, 24-10743 (5th Cir.). The parties therefore submit this status report pursuant to the Court’s stay order. *See* ECF No. 41.

The parties agree and respectfully submit that continuing the stay in this matter pending final resolution of the appeal in *Mock* would both promote judicial economy and preserve the parties’ resources. *See Air Line Pilots Ass’n v. Miller*, 523 U.S. 866, 879 n.6 (1998) (“The power to stay proceedings is ... inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). The Fifth Circuit’s decision in *Mock* will likely provide this Court with significant guidance—if not a dispositive rule of decision—for resolving this case. *See, e.g., Greco v. Nat’l Football League*, 116 F. Supp. 3d 744, 761 (N.D. Tex. 2015)

(granting a stay pending the Fifth Circuit’s resolution of an appeal in a related case because the “final outcome” of that appeal would “very likely bear on this case” and “streamline issues for dispositive motions”). Moreover, if this Court’s vacatur of the Rule is ultimately affirmed on appeal, any resolution of this case will lack practical significance.

Accordingly, the parties jointly request that the Court continue the stay in this case pending final resolution of the appeal in *Mock*.

Dated: October 11, 2024

Respectfully submitted,

/s/ Lucas T. Vebber

Richard M. Esenberg (*admitted pro hac vice*)
Daniel P. Lennington (*admitted pro hac vice*)
Lucas T. Vebber (*admitted pro hac vice*)
330 East Kilbourn Avenue, Suite 725
Milwaukee, WI 53202
Telephone: (414) 727-9455
Facsimile: (414) 727-6385
Rick@will-law.org
Dan@will-law.org
Lucas@will-law.org

Attorneys for Plaintiffs

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

BRIGHAM J. BOWEN
Assistant Branch Director

/s/ Jody D. Lowenstein

JODY D. LOWENSTEIN (MT Bar No. 55816869)
TAYLOR PITZ (CA Bar No. 332080)
FAITH E. LOWRY (TX Bar No. 24099560)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 598-9280
Email: jody.d.lowenstein@usdoj.gov

Attorneys for Defendant

CERTIFICATE OF SERVICE

On October 11, 2024, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Jody D. Lowenstein
JODY D. LOWENSTEIN
Trial Attorney
U.S. Department of Justice